

AVERY STINSON, ET AL

VERSUS

UNITED STATES POSTAL SERVICE, ET AL

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF TEXAS, HOUSTON

CIVIL: \_\_\_\_\_; JUDGE/MAGISTRATE

COMPLAINT FOR DAMAGES

Plaintiffs, Avery Stinson, individually and as next friend of his minor children named Nayeli Stinson, Izyana Stinson and Amaziah Stinson and Shantay Sampson (hereinafter referred to collectively as "Plaintiffs") submit this Complaint for Damages.

1. Made Defendants herein:
  - a. United States Postal Service (hereinafter referred to as "USPS"), a federal governmental entity, who can be served through the Civil Process Clerk located at the United States Attorney's Office, 1000 Louisiana St., Suite 2300, Houston, Texas 77002.
  - b. US Trailer Holdings, LLC a federal governmental entity, who can be served through the Civil Process Clerk located at the United States Attorney's Office, 1000 Louisiana St., Suite 2300, Houston, Texas 77002.
  - c. Stewart Gary Henry (hereinafter referred to as "Driver"), a resident of the State of Texas, who may be served with process at 4226 Echo Clearing Ct., Humble, Texas 77346, or where he may be found.
2. Defendants are liable unto Plaintiffs, *in solido*, in the full sum and amount of damages as are reasonable in the premises to be proven at the trial on the merits of this matter, until paid and for all cost of these proceedings for the reasons outlined as follows herein.
3. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331, as Plaintiff's claims arise under the Constitution and laws of the United States. This Court has jurisdiction to grant relief in this action pursuant to 28 U.S.C. § 1334(b), as Plaintiff brings claims under the Federal Tort Claims Act.
4. Venue is proper in the Southern District of Texas under 28 U.S.C. § 1402(b) because the events giving rise to these claims occurred in this judicial district.
5. Plaintiff timely filed an administrative complaint with United States Postal Service to which he received no decision.

6. On January 5, 2021, Plaintiff was operating a bicycle on the sidewalk next to the right lane of the 14600 Eastex Freeway in Harris County, Texas.
7. Plaintiff had the right of way and attempted to cross the intersection.
8. While crossing the intersection, a USPS' truck trailer carrying US Trailer's trailer (hereinafter collectively referred to as "18-wheeler") was being operated on Eastex Freeway by Driver.
9. Driver made a right turn striking Plaintiff's bicycle (hereinafter referred to as "Subject Incident").
10. At the time of the Subject Incident, Driver was operating the 18-wheeler, with permission of USPS, in the course and scope of employment with USPS on the roadway.
11. USPS is vicariously liable for the actions and/or inactions of its employee, Tortfeasor, who was acting in furtherance of a business enterprise and /or in furtherance of a business mission, through the doctrine of *respondeat superior* for the injuries and damages suffered by Plaintiffs.
12. Driver was intoxicated and/or under the influence while operating the motor vehicle and the Plaintiffs are entitled to exemplary and punitive damages for the injuries and damages caused by this gross, willful, wanton and reckless behavior.
13. Upon information and belief and at all times relevant herein, the aforementioned accident and/or collision were caused totally, solely and/or concurrently through the negligence and/or fault of the Defendants in the following non-exclusive particulars, to-wit:
  - a. Inattentiveness;
  - b. Failing to yield;
  - c. Careless operation of a motor vehicle;
  - d. Operating a motor vehicle in an unsafe manner; and
  - e. Failure to follow Federal Motor Carrier Safety Regulations.

14. Plaintiffs were totally free from any fault whatsoever in causing or contributing to the crash.
15. As a result of the aforementioned accident, Plaintiffs sustained injuries and/or damages, which they outline in the following non-exclusive particulars, to-wit;
  - a. Medical Expenses;
  - b. Loss of earnings and impaired earning capacity;
  - c. Physical pain and suffering;
  - d. Humiliation;
  - e. Shame;
  - f. Embarrassment;
  - g. Isolation;
  - h. Despair;
  - i. Loss of Mobility;
  - j. Mental distress, worry and anxiety;
  - k. Emotional trauma and insecurity;
  - l. Permanent disability;
  - m. scarring and gross disfigurement;
  - n. Loss of enjoyment of life and inconvenience;
  - o. Punitive and Exemplary Damages;
  - p. Legal interest from the date of judicial demand; and
  - q. All costs of court and expenses incurred in the prosecution of this litigation.

Thus, Plaintiffs desire and are entitled to such damages in an amount reasonable in the premises.

16. Plaintiffs, Nayeli Stinson, Izyana Stinson and Amaziah Stinson and Shantay Sampson, due to the injuries suffered by their family member, have been prevented from enjoying the love, society, affection, and normal maternal

relations of their family member and have been seriously impacted in her family life to the extent that she has suffered, and will continue to suffer, a loss of consortium.

Plaintiffs pray that:

- a. Defendants be duly cited and served with a copy of this Complaint For Damages;
- b. After all legal delays and due proceedings be had, there be judgment rendered herein in favor of Plaintiffs and against Defendants, jointly, severally and *in solido*, in the full and true sum of an amount reasonable in the premises to be proven at the trial on the merits of this matter, plus legal interest thereon from the date of judicial demand until paid and for all costs of these proceedings, and for all other just and equitable relief; and
- c. They be given Notice of Judgment, Trial and all steps and action taken in this litigation.

RESPECTFULLY:

PATRICK DANIEL LAW



PATRICK DANIEL

TRIAL ATTORNEY COUNSEL FOR PLAINTIFF(S)

LOUISIANA

BAR NUMBER 27753

TEXAS

BAR NUMBER 24089305

WISCONSIN

BAR NUMBER:1117666

CERTIFICATE OF SERVICE

THIS PLEADING WAS SERVED ON ALL COUNSEL OF RECORD VIA ELECTRONIC MAIL

MAILING|7941 KATY FREEWAY, Box 791; HOUSTON, TEXAS 77024

PHYSICAL|4801 WOODWAY DRIVE, SUITE 440-W, HOUSTON, TEXAS 77056